PART IV

SECTION 2-C—(ii)

STATUTORY ORDERS ISSUED BY THE STATE GOVERNMENT UNDER THE CENTRAL ACTS AND STATE ACTS

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute :—Industrial Dispute between the Workmen and the Management of Mallikarjuna Talkies, Kadur———

Award of the Labour Court, Chikmagalur—Published.

Read the following papers :—

(1) Letter No. 8013/1970, dated 23rd November 1970 from Shri S. B. Sawkar, District Judge and *Ex-Officio* Presiding Officer, Labour Court, Chikmagalur.

BEFORE THE DISTRICT JUDGE AND *EX-OFFICIO* PRESIDING OFFICER, LABOUR COURT, CHIKMAGALUR.

Dated the 21st day of November 1970

Present: Shri S. B. Sawkar, LL.B., District Judge and *Ex-Officio* Presiding Officer.

Reference No. 2/69.

C. B. Mohamed Ghouse, Operator, Mallikarjuna Talkies, Kadur, by its Secretary, Karnataka Pradesh Plantation and General Labour Union, Chikmagalur.

I Party.

Vs.

The Management of Mallikarjuna Talkies, Kadur.

... ... *II Party.*

Reference No. F. C. L. 675, LLD 69, dated 6th October 1969 received from the Government on 7th October 1969 and registered as Reference No. 2/69, as per orders of Presiding

Officer, Labour Court, on 1st December 1969. The disputes referred under Sec. 10 of the Industrial Disputes Act 1947. The dispute is regarding the termination of Sri C. B. Mohamed Ghouse, Operator, Mallikarjuna Talkies, Kadur, who is demanding reinstatement with back wages from 8th May 1968. Therefore, the dispute is referred to this Hon'ble Court for adjudication.

ORDER.

1. This is a reference of the dispute between one C. B. Mohamed Ghouse by the Secretary Karnataka Palesh Plantation and General Labour Union, Chikmagalur (hereinafter referred to as party No. 1) and the management of Mallikarjuna Talkies, Kadur, (hereinafter referred to as party No. 2 (referred to by the Government of Mysore, under the provisions of Sec 10, Sub Sec. (1) (c) of the Industrial Disputes Act 1947, for adjudication of points of dispute as under:—

1. Whether the management of Mallikarjuna Talkies Kadur, are justified in terminating the services of Sri C B Mohamed Ghouse, Operator with effect from 8th May 1968?
2. Whether the above workman is justified in demanding reinstatement with back wages from 8th May 1968?
3. If not, what other relief the workman is entitled to?

2. After the dispute was registered in this Court as reference No 2/69 notices were issued to both the parties. The first party filed the claim-statement on 23rd January 1970. The second party has remained absent throughout.

3. In support of its case, the first party has examined one M. B. Manjunath and C B Mohamed as P. Ws. 1 and 2 respectively. P. W. 1 is the Labour Officer and Conciliation Officer of Chikmagalur and Hassan Districts. On receipt of the complaint by the first party C B Mohamed, P. W. 2, as per Ex. P-1, on 21th September 1968 he conducted conciliation after issuing notice to both the parties by ordinary post, Ex. P-2, is the rep y sent by one Somasekhara, lessee of Mallikarjuna Talkies. Since the second party did not appear at all, the conciliation ended in failure.

4. P. W. 2 who is the first party has sworn that he was working as Operator in Mallikarjuna Talkies, Kadur, for about 19 years and on a monthly salary of Rs. 150/-. On 8th May 1968, his services were terminated by the second party without issuing any notice to him before termination. His services were terminated without any reason. He was not paid any bonus, nor National holiday wages nor over time allowances. When he made a demand of the same, the second party did not even reply. It also did not consider his request for re-instatement. So he filed a complaint to the Labour Union. The Conciliation Proceedings taken by P W. 1 failed as the second party did not attend the same. There are five persons in the second party management and all the five persons terminated his service. He has sought for reinstatement with back wages.

5. The statement of P. W. 2 on oath stands unchallenged. P. W. 1 has sworn that P. W. 2 had complained to him about the wrongful termination of his services. Ex. P-1 is the complaint filed by P. W. 2 before the Labour Officer on 23rd September 1968. Ex. P-2 is the reply sent by Sri Mallikarjuna Talkies, Kadur, by one S. Somasekhar, Lessee, stating that they are in no way concerned with this case and they do not know any person by name C. Mohamed Ghouse. From the reply sent by Somasekhara, it can be seen that the management of this Mallikarjuna Talkies was taken over by the second party from 1st January 1969 The services of the first party according to the complaint at Ex. P-1 were terminated on 8th May 1968. Evidently on that date, the second party was not managing the concern at all. It is incumbent on the first party to prove that on the date on which his services were terminated it was the second party management which was managing the concern, namely, the Mallikarjuna Talkies, Kadur, and it was this party that had terminated his services without any reasons or grounds. In the first place except his own interested testimony there is nothing on record reliable enough to hold that he was in the service of the Mallikarjuna Talkies Kadur either on 8th May 1968 or prior to it, and that he was appointed on a salary of Rs. 150/- per month. Ex P-1 also is a complaint given by the first party to the Labour Officer. This document also is the document of the first party only. The first party could have summoned the register and account books of the second party for the relevant years to establish that the first party was working under the second party for any particular period and

that his services were terminated on 8th May 1968 without any reasons or grounds. Unless these facts are established it cannot be said that the services of the first party were terminated by the management of Mallikarjuna Talkies, Kadur, on 8th May 1968. Much less can it be said on the basis of such evidence on record that the services of the first party were terminated without any just and proper cause. The evidence of P. W. 1 does not in any way help the first party to prove his case that he was working under the second party management on a monthly salary of Rs. 150 and that his servicees were terminated on 8th May 1968. In these circumstances and in the absence of any reliable material on record to hold that the first party was serving under the second party as claimed by him, and his services were wrongfully terminated on 8th May 1968, as claimed by him, the first party is not entitled to any relief sorght for and the reference made in this behalf has to be rejected. I, therefore, record my findings on points 1, 2 and 3 accordingly. I pass the following order.

ORDER

Reference rejected. No order as to costs.

Dictated to the stenographer, transcribed and then pronounced in open Court this the 21st day of November 1970.

S. B. SAWKAR,
District Judge and
Ex-Officio *Presiding Officer,*
Labour Court, Chikmagalur.